ORIGINAL

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
High-Cost Universal Service Support	)	WC Docket No. 05-337
	)	
Federal-State Joint Board on Universal Service	)	CC Docket No. 96-45 FILED/ACCEPTED
	)	MAR 27 2009
Advantage Cellular Systems, Inc. Request for Cost-Based Universal Service Support	)	Federal Communications Commission Office of the Secretary

ADVANTAGE CELLULAR SYSTEMS, INC. REQUEST FOR COST-BASED UNIVERSAL SERVICE SUPPORT

Advantage Cellular Systems, Inc. ("Advantage"), by its attorneys and pursuant to the Federal Communications Commission's ("Commission" or "FCC") *Interim Cap Order*,[1] hereby requests cost-based universal service support. In support thereof, Advantage hereby submits a wireless cost study.

The *Interim Cap Order* provides, *inter alia*, that wireless competitive eligible telecommunications carriers ("ETCs") subject to the interim cap on high-cost universal service support may file supporting cost data to demonstrate that the Commission's emergency, interim cap should not be applied and that, instead, support reflecting the wireless competitive ETC's costs should be used. As discussed in further detail below, Advantage's attached cost study demonstrates the extremely high cost associated with the provision of mobile telecommunications in Advantage's rural setting and why it is in the public interest for

[1] *See In re High-Cost Universal Service Support, Federal-State Joint Board on Universal Service, Alltel Communications, Inc., et al. Petitions for Designation as Eligible Telecommunications Carriers, RCC Minnesota, Inc. and RCC Atlantic, Inc. Net Hampshire ETC Designation Amendment*, WC Docket No. 05-337 and CC Docket No. 96-45, Order (May 1, 2008) ("*Interim Cap Order*").

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Advantage to be exempt from the cap. Accordingly, Advantage requests that the Commission direct the Universal Service Administrative Company ("USAC") to distribute cost-based, universal service support to Advantage, in accordance with Section 54.307[2] of the Commission's Rules, on the basis of Advantage's cost study, effective as of August 1, 2008, the date on which the *Interim Cap Order* became effective.[3]

I. DISCUSSION

Advantage is a facilities-based provider of reliable and advanced commercial mobile radio service ("CMRS") in rural portions of Tennessee. Over the past several years, Advantage has undergone an extensive network upgrade and worked to bring GSM technology, the most widely utilized CMRS technology worldwide to its subscribers in rural areas of Tennessee. Today, Advantage offers a high quality 2.5G network and, prior to the imposition of the interim cap, had planned to upgrade to a 3G network, offering its rural customers faster Internet connection speeds and new, advanced mobile services.

On October 22, 2004, the Commission granted Advantage ETC status for portions of its licensed service area in the State of Tennessee, including areas served by incumbent local exchange carriers ("ILECs") DeKalb Telephone Cooperative ("DeKalb") (Study Area Code 290562) and Ben Lomand Rural Telephone Cooperative, Inc. ("Ben Lomand") (Study Area Code 290553).[4] The Commission specifically concluded in the *ETC Designation Order* that it

[2] 47 C.F.R. § 54.307 (defining how support is to be calculated for competitive ETCs).

[3] Advantage's request for such support is consistent with the FCC's recent grant of high-cost support as of August 1, 2008 to competitive ETCs serving Covered Locations. *See In re High-Cost Universal Service Support*, WC Docket No. 05-337, *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, FCC 09-16 at ¶ 7 (March 5, 2009) ("*Covered Location Order*").

[4] *See Federal-State Joint Board on Universal Service, Advantage Cellular Systems, Inc.*, CC Docket No. 96-45, Order, DA 04-3357 (October 22, 2004) ("*ETC Designation Order*"). The Commission considered Advantage's ETC petition because Advantage demonstrated that the Tennessee Regulatory Authority lacked the jurisdiction to perform the requested ETC

was "consistent with the public interest, convenience, and necessity" to designate Advantage as an ETC in its requested rural study areas. Federal high-cost universal service support enables Advantage to deploy and maintain vital mobile telecommunications services in the areas that it serves.

On May 1, 2008, the FCC released its *Interim Cap Order* whereby it adopted, in accordance with the Federal-State Joint Board on Universal Service's recommendation, an interim, emergency cap on the amount of high-cost support that competitive ETCs may receive. Specifically, the Commission ordered total annual support for competitive ETCs in each state to be capped at the level of support that competitive ETCs in that state were eligible to receive during March 2008 on an annualized basis. This cap, and the use of March 2008 data, has had a deleterious effect on the amount of high-cost support that flows to competitive ETCs in the state of Tennessee. In fact, USAC predicts that second quarter 2009 support in Tennessee may be capped at a factor of 0.223267.[5] This Tennessee state cap of approximately 22 percent of formerly available support levels is the lowest state cap factor in the entire country. The loss of approximately 78 percent of pre-cap support levels has made Advantage's provision of crucial mobile services in rural Tennessee increasingly difficult and has made it impossible for Advantage to upgrade to a 3G GSM network. As discussed in more detail below,

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designation and that the Commission had the authority to do so under Section 214(e)(6) of the Communications Act of 1934, as amended.

[5] *See* HC01 - High Cost Support With Capped CETC Support Projected by State by Study Area - 2Q2009, http://www.universalservice.org/about/governance/fcc-filings/2009/Q2/HC01%20-%20High%20Cost%20Support%20With%20Capped%20CETC%20Support%20Projected%20by%20State%20by%20Study%20Area%20-%202Q2009.xls.

implementation of the cap has cut Advantage's recent monthly high-cost support from approximately $83,000 to $27,000.[6]

The *Interim Cap Order* provided for two limited exceptions to the interim cap – one for competitive ETCs that file qualifying cost data, and the second for competitive ETCs serving tribal lands or Alaska Native regions ("Covered Locations"). By filing the attached cost study and supporting materials, Advantage seeks to invoke the first of these limited exceptions. When it adopted this exception, the Commission cited to its prior decisions to exempt ALLTEL, AT&T, and Dobson from the interim caps that were imposed as conditions in their respective merger transactions and license transfers.

> [C]onsistent with the *ALLTEL-Atlantis Order* and the *AT&T-Dobson Order*, we find it in the public interest to adopt a limited exception to the interim cap if a competitive ETC submits its own costs. Specifically, a competitive ETC will not be subject to the interim cap to the extent that it files cost data demonstrating that its costs meet the support threshold in the same manner as the incumbent [local exchange carrier].[7]

Allowing Advantage to receive support above the arguably arbitrary levels imposed by the interim cap in rural Tennessee would provide additional incentives for Advantage to continue to invest in and expand its own facilities in rural Tennessee. Advantage also notes that, pursuant to the *ALLTEL-Atlantis Order*, Advantage can demonstrate that its network is in compliance with Section 20.18(h) of the Commission's

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[6] Advantage's support has also been dramatically affected by the entrance of U.S. Cellular, a large, Tier II wireless competitive ETC in Tennessee in the second quarter of 2008, just after the March 2008 cap calculation date.

[7] *Interim Cap Order at* ¶ 31. *See also Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings LLC, Transferee For Consent to Transfer Control of Licenses, Leases and Authorizations*, WT Docket No. 07-185, Memorandum Opinion and Order, 22 FCC Rcd 19517 (2007) (*"ALLTEL-Atlantis Order"*); *Applications of AT&T Inc. and Dobson Communications For Consent to Transfer Control of Licenses and Authorizations File Nos. 003092368 et al.*, WT Docket No. 07-153, Memorandum Opinion and Order, 22 FCC Rcd 20295 (2007).

Rules regarding emergency 911 ("E911") location accuracy.[8] As demonstrated by Advantage's cost study and supporting materials, Advantage is qualified under the limited exception *not* to be subject to the interim cap and to receive "portable" support pursuant to Section 54.307 of the Commission's Rules.[9]

II. COST STUDY

Advantage's cost study (attached as Exhibit A) was conducted using the "Revenue Management System" ("RMS"), a Part 36 and Part 69 revenue requirement costing system developed by Warinner, Gesinger & Associates, LLC.[10] The High Cost Loop Support ("HCLS"), Interstate Common Line Support ("ICLS"), and Local Switching Support ("LSS") algorithms used within the RMS allocation model were developed following Part 36, Subpart F and Part 54 of the Commission's Rules, as appropriate. RMS studies, and the related high-cost support algorithms, have been widely accepted for ILEC cost studies by NECA for more than 20 years.

Advantage conducted its cost study using methods almost identical to how a wireline cost study is developed. Since CMRS carriers are not required to use FCC Part 32 Rules and other accounting-related FCC Rules, Advantage's accounts were "mapped" into wireline equivalents in Part 32 as the first step in the cost study process. Advantage used a simple average calculation to determine rate base amounts using plant investment levels from June 30, 2007 and June 30, 2008. Advantage accumulated expenses for the twelve month period ending June 30, 2008.

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[8] *Id.* at ¶ 10.

[9] 47 C.F.R. § 54.307.

[10] Warinner, Gesinger & Associates, LLC ("WGA") is a consulting firm providing supporting regulatory services (including jurisdictional studies and access tariffs) to telecommunications companies since 1988. WGA developed its Revenue Management System, an Excel based software program, to facilitate the filing requirements of FCC Parts 36 and Part 69, and high cost support mechanisms. The RMS has been used by over 50 companies to perform cost studies for more than 200 ILEC study areas.

Trial balances were summarized into rate base and expense summaries representing "accounts subject to separations." A Part 64 allocation was performed to separate out Advantage costs related to resold long distance and video services. After completion of the Part 64 adjustments, costs are considered "regulated costs subject to separations." Plant categorization was performed in compliance with Part 36 Rules for rate base accounts. Cellular towers were considered "Cable and Wire Facilities" and their costs assigned to the subscriber category. Central Office equipment was categorized as switching or circuit equipment. Circuit equipment costs related to SMS messaging were not considered to be "a supported service" and were therefore assigned to the exchange line wideband category in order to keep these costs from being included in either the common line or local switching access elements. HCL and LSS data collection forms were populated using the "regulated cost subject to separations" and the revenue requirement for common line was determined from an interstate Part 69 allocation using a 25 percent gross assignment factor. The ICLS, LSS, and HCL support amounts were determined using the RMS software to compute the Part 36 and Part 69 studies and the related algorithms, which follow ILEC industry standards.

a. Interstate Common Line Support

Interstate Common Line Support was developed as a net amount using Interstate subscriber line costs developed in the Part 69 study, referred to as the Carrier Common Line ("CCL") revenue requirement, less imputed End-User Common Line Charges ("EUCL"). Advantage used the frozen Subscriber Plant Factor ("SPF") known as the gross assignment factor of 25 percent[11] to allocate subscriber line related costs to the interstate jurisdiction. Advantage's CCL revenue requirement includes line port adjustment amounts from the switching access element in accordance with the rules for wireline carriers established in the

[11] 47 C.F.R. § 36.154(c).

Multi-Association Group ("MAG") Order.[12] EUCLs were imputed because, in the wireless industry, EUCLs have not been implemented as a means of recovering a portion of the common line revenue requirement from the end user as described in Section 69.104 of the Commission's Rules. The carrier common line revenue requirement was developed in accordance with Section 69.105 and the other applicable sections of the Part 69 access charge rules.

For Advantage, common line related plant included the central office circuit equipment necessary to provide voice paths to each cellular tower and the related field equipment at each tower necessary to provide voice calls to wireless handsets. CCL costs included a return on rate base associated with the subscriber plant and related expenses for maintenance, depreciation, corporate operations, taxes, and other related costs as apportioned in accordance with Part 36 and Part 69 Rules.

b. Local Switching Support

Local Switching Support was developed in accordance with Sections 36.125 and 54.301 of the Commission's Rules. These sections allow an ETC that has fewer than 50,000 lines to receive support for local switching costs. Switching costs include the cost of the central office switching equipment necessary to process calls. Local switching support includes a return on rate base associated with the net switching plant and related expenses for maintenance, depreciation, corporate operations, taxes, and other related costs as apportioned in accordance with Part 36 and Part 69 Rules.

c. High Cost Loop Support

High Cost Loop Support was developed using the rules and calculations as detailed in Part 36, Subpart F. Amounts subject to regulation were inserted into the HCL algorithm attached

[12] *See In re Multi-Association Group Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, CC Docket No. 00-256, Second Report and Order, FCC 01-304 (November 8, 2001).

to RMS and the Study Area Cost per Loop ("SACPL") was computed for Advantage. This amount was then compared to the National Average Cost per Loop ("NACPL") as filed by the National Exchange Carrier Association ("NECA") in October of 2008. Advantage's SACPL was below 115 percent of the NACPL of $382.97, so Advantage does not qualify for High Cost Loop Support.

On the basis of the cost data provided herewith, Advantage requests that the Commission direct USAC to begin distributing uncapped universal service support to Advantage in accordance with the *Interim Cap Order*. The attached cost study demonstrates that Advantage, using the FCC's Part 36, 54, and 69 Rules, is deserving of approximately $2.4 million a year in federal high-cost support. Advantage is not asking the Commission for this amount of support which is more than twice the amount it received prior to the cap. Advantage is only asking that the Commission remove the cap pursuant to the *Interim Cap Order* and allow Advantage to receive support at uncapped levels in accordance with the "identical" support rule set forth in Section 54.307 that applies to competitive ETCs. As established in the chart below, Advantage's uncapped monthly support levels from October 2008 to January 2009 total on average about $83,000 per month:

Month	Cap Factor	Capped Support	Uncapped Support	Lost Support
[redacted]	0.2876	$24,340	$84,912	$-60,572
Dec 2008	0.3285	$27,147	$83,071	$-55,924
Nov 2008	0.3285	$27,147	$83,071	$-55,924
Oct 2008	0.3285	$26,868	$82,220	$-55,352

Advantage estimates that the annual uncapped support it will receive is roughly $995,000 per year. With the interim cap in place, Advantage estimates that its support levels will drop below $250,000 per year. By accepting Advantage's cost study, the FCC would enable Advantage to regain its lost high-cost support and allow it to bring much-needed 3G services to its rural Tennessee service area.

III. CONCLUSION

Prior to the implementation of the cap, Advantage received approximately $995,000 a year in high-cost support pursuant to Section 54.307 of the Commission's Rules. This sum, based on Advantage's attached cost study, does not even come close to covering Advantage's demonstrably substantial costs of providing mobile telecommunications services in rural Tennessee. This sum, however, helps support the provision of services to rural Tennesseans so that they can enjoy affordable mobile services. Therefore, it is in the public interest for the Commission to accept Advantage's cost study, remove the cap's applicability to Advantage, and direct USAC to provide *uncapped* high-cost support to Advantage pursuant to Section 54.307. Advantage also requests that the Commission direct USAC to provide uncapped, cost-based support, effective as of August 1, 2008,[13] the date on which the *Interim Cap Order* became effective and Advantage's high-cost support was drastically reduced.[14]

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[13] Advantage notes that a late-filed rural certification caused Advantage to be denied HCL and LSS for the first three quarters of 2008. *See* 47 C.F.R. § 54.314. Advantage is not seeking this lost support in the instant filing.

[14] *Covered Location Order* at ¶ 7 (granting competitive ETCs serving Covered Locations additional support as of the effective date of the *Interim Cap Order*).

For the reasons discussed herein, and based on the data and supporting materials contained in Advantage's cost study, Advantage requests that the Commission direct USAC to provide Advantage with uncapped high-cost support pursuant to the *Interim Cap Order* and Section 54.307 of the Commission's Rules as of August 1, 2008.

Respectfully submitted,

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Exhibit A

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